HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:25256 OF 2007

Dated:28.11.2007

Between:

M/s. B.S. Chemicals, Vemuluru,
Rep., by its Proprietor B.S. Prasad

..Petitioner

And

1. The Joint Commissioner (CT) Legal,
   Hyderabad and another.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
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ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the order dated 26.10.2007 passed by the 1st respondent in CCT's Ref.No.LV(2)/801/2007 refusing to grant stay of collection of the disputed taxes for the assessment year 2004-2005 (APGST) as illegal and arbitrary and consequently, to direct the 2nd respondent not to collect the disputed taxes, pending disposal of the appeal before the Sales Tax Appellate Tribunal, Hyderabad.

The main grievance of the petitioner is that an appeal has been preferred before the Sales Tax Appellate Tribunal against the order passed by 1st appellate authority and the same is pending. The petitioner has also filed an application before the 1st respondent seeking stay of recovery of disputed tax and the said application was rejected. Hence, the present writ petition is filed by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Government Pleader for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that an appeal is pending before the Sales Tax Appellate Tribunal as to the assessment of disputed tax and at this juncture, if the relief as to the stay of the proceedings is not entertained and if the recovery of the disputed tax in question is effected during the pendency of the appeal

before the Sales Tax Appellate Tribunal, the very purpose of filing the said appeal, which is a statutory remedy that is available to the aggrieved party, would be defeated.

In the facts and circumstances of the case and in view of the pendency of the appeal before the Sales Tax Appellate Tribunal, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to imposition of certain conditions. Accordingly, there shall be stay of recovery of disputed tax till the disposal of the appeal pending before the Sales Tax Appellate Tribunal subject to the condition of the petitioner depositing 50% of the disputed tax within a period of six weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 28th November, 2007
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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
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(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

28/11/2007